

## **I am undocumented. Can I leave my husband and get a divorce without being deported?**

Yes - if you are not safe, leave now. You do not have to be documented to get a divorce or to ask for legal custody of your children. But, because a divorce may affect other rights, *do not get a divorce without first talking to an immigration attorney.*

## **What if my children or I am undocumented? Can we obtain legal residency and work authorization?**

There are at least two forms of immigration relief for which you may be eligible.

(1) VAWA: If you or your children have been "battered or subjected to extreme cruelty" by your spouse, and your spouse is a Legal Permanent Resident or U.S. citizen, you and your children may be eligible to "self-petition" for **permanent residency and work permits** without help from your abuser. Your self-petition is confidential. USCIS cannot discuss your case with your abuser, nor can USCIS decide against you based only on information provided by your abuser. You may also be eligible for public assistance.

(2) U Visa: Eligibility for a U Visa requires the following - you have suffered injury from domestic violence or any number of other crimes, and law enforcement certifies that you possess information about the criminal activity and that you are willing to help or have helped in the investigation or prosecution of the crime.

## **VAWA**

### **Who can apply under VAWA?**

- \* an abused spouse or child of a U.S. citizen or Legal Permanent Resident (LPR)
- \* the parent of a child who was abused and/or subjected to extreme emotional cruelty by a U.S. citizen or LPR parent, if the parents are married.

### **What if I have divorced the abuser?**

If you are divorced, you still might be able to self-petition, if you were divorced less than 2 years ago. *You should talk to an immigration attorney right away.*

### **What if I am being deported?**

You might be able to apply for "cancellation of removal" if you are being deported. *You should talk to an immigration attorney right away.*

### **What if the abuser was deported?**

You or your children still might be able to self-petition. *You should talk to an immigration attorney right away.*

### **What if my abuser is my parent?**

Unmarried children under 21, abused by a parent who is a U.S. citizen or Permanent Resident, may apply for immigration status under VAWA.

### **What if my abuser is not my spouse or my parent, or if he is not a U.S. Citizen or Legal Permanent Resident?**

You may be eligible for a U Visa – see the information below.

### **Can a man apply for residency under VAWA?**

Yes. An abused husband has the same rights under VAWA.

## **U Visa**

U Visas are available for victims of domestic violence, rape, torture, sexual assault, being held hostage, and many other crimes often committed by abusers. If granted, a U Visa provides temporary legal status, including work authorization, and the opportunity to seek permanent status after three years. Certain family members of these victims may also be eligible for the benefits of a U Visa.

### **Do I need an immigration attorney?**

Probably - an immigration attorney will be able to determine if you can apply, and can help you with the application. Your conversation with this attorney will be confidential, and he or she cannot report you to ICE. Many legal aid offices offer free or low-cost services. Some specialize in working with abused women. *Do NOT go to the U.S. Citizenship and Immigration Services office without first talking to an immigration attorney!*

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**To obtain a referral to low-cost or free immigration attorneys, please call Farmworker Legal Services at 1-800-968-4046 (se habla español)**

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**For a domestic violence advocate or shelter near you, call:  
The Center for Women in Transition:  
1-800-848-5991  
(se habla español)**


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*You have the right to be free from violence in your home*

# **QUESTIONS AND ANSWERS ABOUT DOMESTIC VIOLENCE FOR IMMIGRANT AND UNDOCUMENTED WOMEN AND CHILDREN**

*Has your abuser threatened to have you or your children deported if you call for help or report the abuse to the police?*

*This brochure will tell you how you can take steps to be safe from violence and possibly obtain legal residency and work authorization.*

	<b>FARMWORKER LEGAL SERVICES</b>
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**This flyer is intended to provide general information only. For legal advice about your specific situation, contact an attorney.**

Farmworker Legal Services is a division of Legal Services of South Central Michigan



## What is domestic violence?

"Domestic Violence" is violence that typically occurs at home between people who:

- \* are currently, or have been, married
- \* are currently in, or have been in, a significant relationship
- \* currently live, or have lived, together or are related by blood.

Although the violence is often in the form of physical injury, it may also be in the form of threats, isolation, emotional mistreatment, verbal abuse, or forced sex.

If you are experiencing domestic violence in your home, you are not alone. Although domestic violence is usually hidden, it is very common and probably affects many people you know. Domestic violence tends to get worse with time. It is important to remember that you are not responsible for the violence, but there are things that you can do to break the "cycle of violence" affecting you.

## What can I do?

There are many services available to help you to stop violence in your home: shelters, hospitals, police, legal services, and community services.

## Should I call the police?

If you are in immediate danger, get out and get help. If you are in danger but cannot leave, call 911. The police will escort you and your children to a safe place if you want to leave.

Be advised that domestic violence is a crime. The police must arrest your abuser if they believe a crime has been committed. *If the police arrest your abuser, they will probably check his/her immigration status.* If your abuser is undocumented, s/he could be turned over to Immigration and Customs Enforcement (ICE) and ultimately be deported.

Generally, the police do not check the immigration status of a victim. If the police improperly ask you your status, by law, you do not have to tell them. The police's job is to protect you and your children from harm, not to check your immigration status. If you speak to the police, ask them to make a report. It is good to get the name and badge number of any officer you speak with.

## Should I leave my home if I am in danger?

Yes. Go to a friend's house or an abused women's shelter. Shelters are usually free and the advocates there will help you decide what to do next. They will also have information about community services that can help you. Keep your location secret.

## What if I think I may need to leave in the future?

Have a plan for leaving. Prepare a small bag with your important papers in it (or at least copies of such papers). Hide this bag in a safe place (perhaps with a friend) where you can get to it quickly.

## What should I take with me?

Make every effort to take your children with you. It is also helpful if you can bring important documents and information with you, such as:

- \* driver's license
- \* marriage license
- \* leases and deed information for your apartment, house, and car
- \* checking and banking information
- \* birth certificates for yourself, and your children
- \* recent pay stubs (yours and his)
- \* medical and police reports
- \* public assistance documents
- \* social security cards, visas, green cards or immigration papers, and passports for you and your children
- \* name, phone number, and address of anyone who has seen, or to whom you spoke about, your abuser's violence
- \* copies of your abuser's green card or immigration card, social security card, passport, and birth certificate
- \* clothing or other items damaged by your abuser's violence
- \* photos of any injuries or property damage caused by your abuser

## I have heard of Personal Protection Orders – what do they do?

A personal protection order (PPO), signed by a judge, can prohibit the abuser from calling, contacting, or assaulting you, your children, or other family members. You may also obtain temporary custody of the children, get economic support, and have the abuser removed from your home.

You do not have to be a U.S. citizen or legal resident to get a personal protection order.

## How will I support myself and my children if I leave home?

As part of your protection order, your abuser may be ordered to pay you money each month to support yourself or your children. In addition, new laws have created ways that abused immigrant and undocumented persons can qualify for legal and public assistance and even get work authorization.

An advocate can help you find safe housing and emergency food. Some can even help you apply for public assistance or find a job. An advocate can help with your other needs by putting you in contact with providers of legal, social, or medical services.

## What if I am a U.S. citizen, legal resident, or refugee?

If you are a U.S. citizen, Legal Permanent Resident, or a Refugee/Asylee, your immigration status should not be affected by leaving or divorcing your abuser. You have legal status: your abuser does not have the power to have you deported by ICE. It is a good idea to keep documents that show your marriage was legal and not for immigration purposes (marriage certificate, letters, photos, etc.).

## What if I have Conditional Residency?

You are a "Conditional Resident" if your Resident Card expires two years after you received it. Normally, this means that you and your spouse have to file a joint application before your card expires for you to become a Permanent Resident. However, if your U.S. citizen or Resident spouse will not help you file the application, you may be able to seek a waiver. *Talk to an immigration attorney right away.*